

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CAROLYN BURRELL,
Plaintiff,

v.

UNIVERSITY OF TEXAS MEDICAL
BRANCH,
Defendant.

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Civ. Action No. 4:09-CV-03932

**DEFENDANT UTMB’S RESPONSE TO PLAINTIFF’S
MOTION FOR LEAVE TO FILE AN AMENDED PLEADING**

TO THE HONORABLE GRAY H. MILLER:

Defendant University of Texas Medical Branch at Galveston (“UTMB”), by and through its undersigned attorney, files this Response to Plaintiff’s Motion For Leave to File an Amended Pleading (Dkt. # 5). The proposed amendment (Dkt. # 5-1) is essentially the same as Plaintiff’s prior complaint, except that Plaintiff has added an individual defendant, Paul Brown.¹

Unfortunately, Plaintiff’s did not confer with UTMB’s counsel in accordance with Local Rule 7.1(D) prior to filing the motion to amend. Although the proposed amendment is futile and subject to dismissal for the same reasons as stated in UTMB’s prior motion to dismiss (Dkt. ## 3, 4), UTMB does not oppose Plaintiff’s motion to amend at this stage. Rather, UTMB reserves the right to move to dismiss the amended complaint, should the Court decide to grant Plaintiff’s motion to amend.

¹ Indeed, Plaintiff’s proposed amended complaint contains some of the same errors identified in Defendant’s motion to dismiss brief (Dkt. # 4), including citing to the American with Disabilities Act (Dkt. #5-1, ¶ 4), even though the amended complaint contains no allegations that Plaintiff is even disabled, much less that she was discriminated against on the basis of her disability.

Dated: March 12, 2010

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***ATTORNEYS FOR DEFENDANT
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BRANCH AT GALVESTON***

CERTIFICATE OF SERVICE

I hereby certify that a copy of *Defendant's Response to Plaintiff's Motion For Leave to File an Amended Pleading* was served via *CM/ECF* on March 12, 2010, to:

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